

U.S.S.N.: 10/605,643

5

WLI 1096 PUS

REMARKS

With this Amendment, the Applicants respectfully request for the continued examination of the application.

In the Final Action, claims 1, 3-6, 23, and 24 were rejected under 35 U.S.C. § 102(b) as anticipated by McGrann (U.S. Patent No. 2,742,946). Claims 1-6, 23, 24, 26-30, 32 and 33 were rejected under 35 U.S.C. § 103(a) as unpatentable over Harmala (U.S. No. 5,320,386). Also, claims 1-6, 23, 24, 26, 28-30, 32, and 33 were rejected under 35 U.S.C. § 103(a) as unpatentable obvious over Brine (U.S. Patent No. 6,752,730) in view of E-Lacrosse. Finally, claims 1-6, 23, 24, 26, 28-30, 32, and 33 were rejected under 35 U.S.C. § 103(a) as unpatentable obvious over Brine in view of Hoult (U.S. Patent No. 3,702,702) and McNeely (U.S. Patent No. 5,511,777). The Applicants have amended the claims to overcome these rejections.

By this Amendment, claims 1-34 have been cancelled without prejudice. New claim 35 recites a hollow tube having a top end portion and a bottom end portion, with each portion having an outer surface and an inner surface. The claimed handle further includes a pair of reinforcing inserts attached to the inner surface of the top end portion and the bottom end portion. The reinforcing inserts are offset from an intermediate portion between the top end portion and the bottom end portion so as to minimize the weight of the handle. McGrann does not teach or suggest this construction. For this reason alone, it is respectfully submitted that amended claim 1 is novel notwithstanding McGrann.

In the Action, it was stated that it would have been obvious to employ multiple sections of reinforcing inserts simply based on cost, manufacturing, and design considerations. Applicants submit that this purported basis lacks sufficient support, is conclusory in nature, and therefore cannot be relied upon as a motivation to modify the references. In this way, it is respectfully submitted that impermissible hindsight, which was gleaned from only Applicants' disclosure, was relied on to reconstruct the claimed invention.

The Examiner stated that it would have been obvious to one skilled in the art to modify Harmala and provide the claimed non-circular cross-sectional shape, based on cost, manufacturing, and design considerations. However, under Section 2143.03 of the Manual of Patent Examining Procedure, *prima facie* obviousness requires that the prior art reference (or references when combined) teaches or suggests all the claim limitations. In this case, Harmala does not disclose the non-circular cross-sectional shape and thus cannot be relied upon for a

U.S.S.N.: 10/605,643

6

WLI 1096 PUS


rejection based on *prima facie* obviousness. In addition, Applicants respectfully submit that the proposed motivation to modify Harmala was not sufficiently supported, but rather was asserted in a conclusory manner. In particular, it was not explained how modifying Haramala to provide a non-circular cross-sectional shape can decrease costs, improve manufacturing, and otherwise benefit design considerations.

New claim 45 recites a hollow metal tube having a plurality of inner corners defining a bore with a polygon cross-sectional shape. The tube further includes reinforcing inserts attached to the inner corners of a top end portion and a bottom end portion of the tube. This feature is beneficial for preventing local deformation or denting of the corners, which is typical damage for lacrosse handles.

Conclusion:

In view of the foregoing, all of the claims remaining in the case, namely claims 35-48, are in proper form and patentably distinguish from the cited references. Accordingly, allowance of the claims and passage of the application to issuance is respectfully solicited.

Respectfully submitted,
ARTZ & ARTZ, P.C.



Vincent C. Ilagan
Reg. No. 53,053
28333 Telegraph Road, Ste. 250
Southfield, MI 48034

Attorney for Applicants

Date: July 31, 2006